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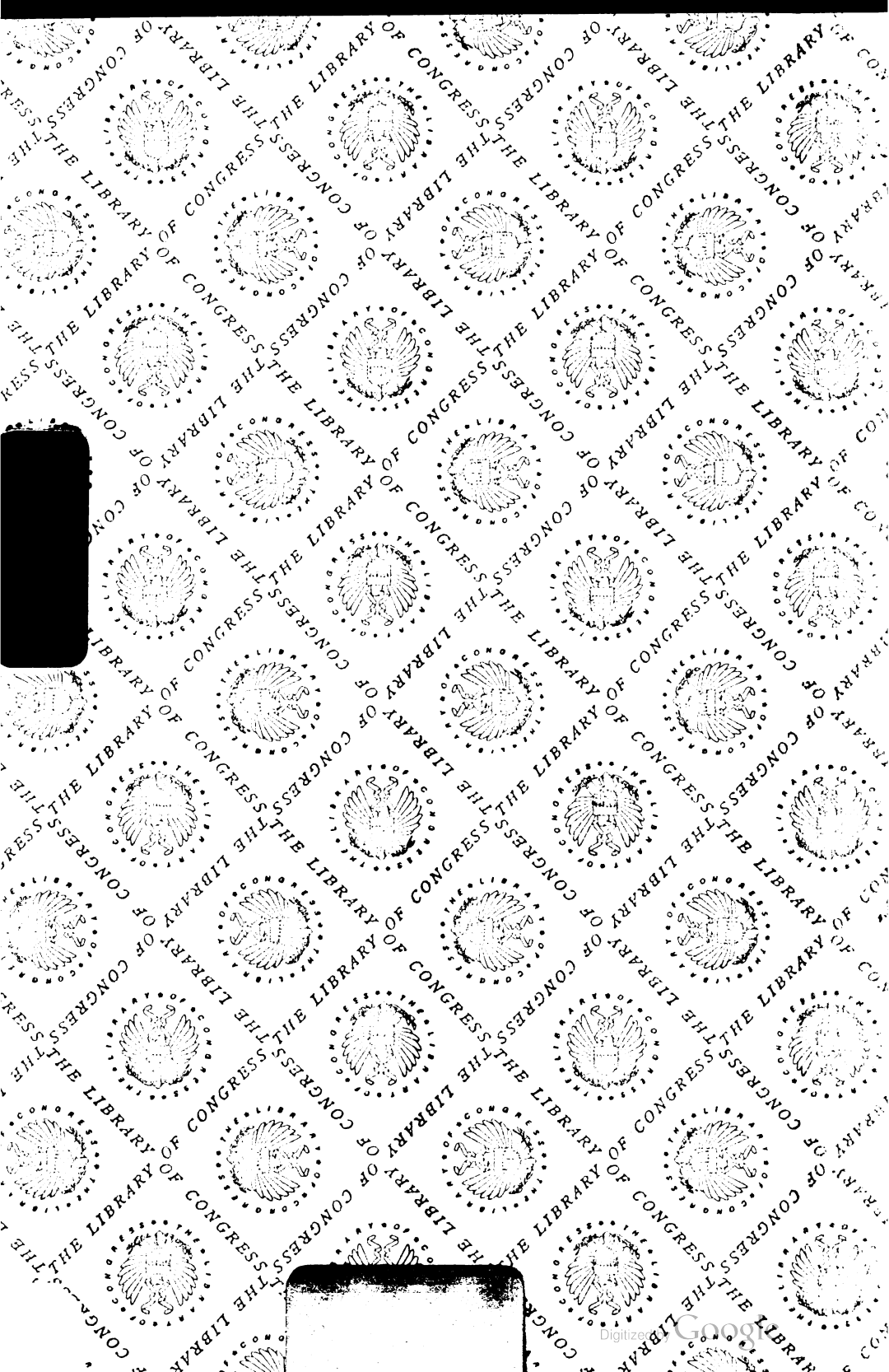
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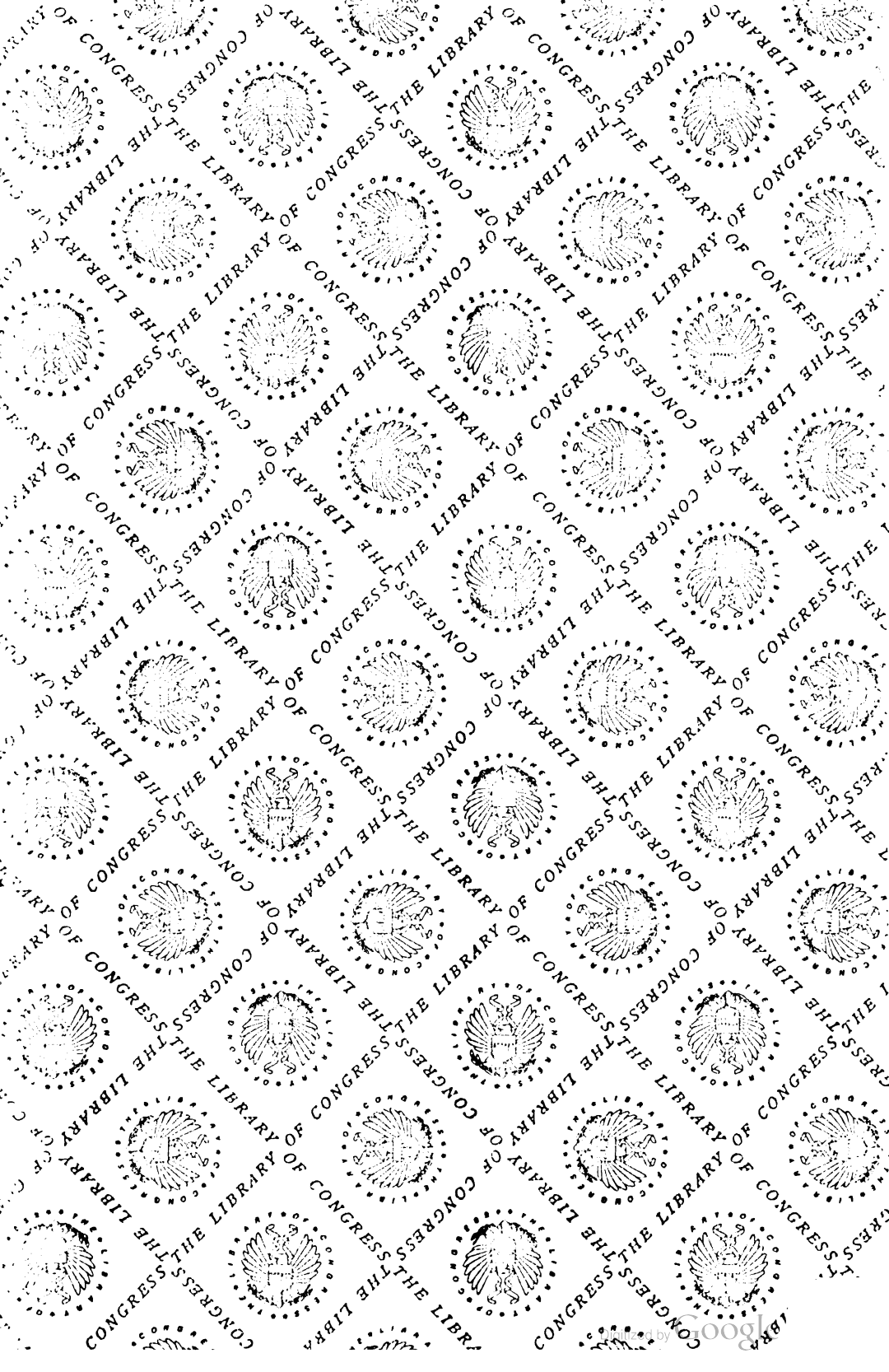
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INTERSTATE TELEGRAPH AND TELEPHONE BUSINESS

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HEARING

U. S.
BEFORE THE COMMITTEE ON INTERSTATE
COMMERCE, UNITED STATES SENATE

FRIDAY, FEBRUARY 28, 1908

ON THE BILL

(S. 4395)

TO PROHIBIT THE GIVING TO OR RECEIPT BY PUBLIC OFFICERS
UNDER THE CONSTITUTION OR LAWS OF THE UNITED STATES
OF ANY FREE FRANK OR PRIVILEGE FOR THE TRANSMISSION OF MESSAGES BY TELEGRAPH OR TELEPHONE,
TO PREVENT DISCRIMINATIONS IN INTERSTATE
TELEGRAPH AND TELEPHONE RATES, AND FIX-
ING REQUIREMENTS GOVERNING THE
RECEIPT AND PRESERVATION
OF SUCH MESSAGES



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GOVERNMENT PRINTING OFFICE
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SIXTIETH CONGRESS.
INTERSTATE COMMERCE COMMITTEE.
SENATE OF THE UNITED STATES.

STEPHEN B. ELKINS, of West Virginia.
SHELBY M. CULLOM, of Illinois.
NELSON W. ALDRICH, of Rhode Island.
JOHN KEAN, of New Jersey.
JONATHAN P. DOLLIVER, of Iowa.
JOSEPH B. FORAKER, of Ohio.
MOSES E. CLAPP, of Minnesota.
WINTHROP MURRAY CRANE, of Massachusetts.
BENJAMIN R. TILLMAN, of South Carolina.
ANSELM J. McLAURIN, of Mississippi.
MURPHY J. FOSTER, of Louisiana.
FRANCIS G. NEWLANDS, of Nevada.
ROBERT L. TAYLOR, of Tennessee.

G. F. SNYDER, *Clerk*.
E. H. McDERMOT, *Assistant Clerk*.

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INTERSTATE TELEGRAPH AND TELEPHONE BUSINESS.

COMMITTEE ON INTERSTATE COMMERCE,
UNITED STATES SENATE,
Friday, February 28, 1908.

The committee met at 10.30 o'clock a. m.

Present: Senators Elkins (chairman), Aldrich, Kean, Tillman, McLaurin, and Foster.

Present also, Mr. Herman J. Schulteis, counsel of the Commercial Telegraphers of the United States; Mr. W. W. Beattie, president of the Commercial Telegraphers of the United States; and Hon. James T. McDermott, a Representative in Congress from the State of Illinois.

STATEMENT OF HERMAN J. SCHULTEIS, ESQ., COUNSEL OF THE COMMERCIAL TELEGRAPHERS OF THE UNITED STATES.

Mr. SCHULTEIS. Mr. Chairman, the Commercial Telegraphers of the United States are represented here through their president, Mr. Beattie, and I have the honor to represent them as attorney; but I understood that the opposition to this bill was to have a hearing this morning. We had our little argument about the bill at the last meeting.

The CHAIRMAN. You are in favor of the La Follette bill (S. 4395)?

Mr. SCHULTEIS. Yes, we are in favor of that bill.

Senator FOSTER. In your opinion has Congress jurisdiction to pass such a bill as this?

Mr. SCHULTEIS. Yes, in my opinion Congress has jurisdiction over interstate telegraph and telephone messages. Senator La Follette intended to be here this morning, but he has been suffering from an attack of the grip. In all probability he will send some communication to the committee. If the committee are disposed to set their next meeting day for a hearing, the Senator will be here and will be able to explain his reasons for including telephone companies in the bill as well as telegraph companies.

Senator ALDRICH. I wish either you or he would furnish the committee with some decision of a court that the sending of telephone messages is a matter of interstate commerce, and subject to our regulations. That is the point from which we ought to start.

Senator FOSTER. I think that is preliminary.

Senator ALDRICH. That is preliminary to the consideration of any details of the bill.

Mr. SCHULTEIS. Will the committee set a very early day for a further hearing? I am satisfied we can get that data in one day.

Senator ALDRICH. That information can be filed with the subcommittee.

The CHAIRMAN. Senator Crane, for personal reasons, finds that he can not serve on that subcommittee, and I have appointed Senator Aldrich in his place.

Senator ALDRICH. What we would like to have is a decision of some court that a telephone company is subject to regulation by the Congress of the United States, in other words, that we have any control whatever over it as a matter of interstate commerce.

Mr. SCHULTEIS. This bill was introduced on January 23, and our object is to get an early hearing before the committee. I do not see any of the Western Union or Postal Telegraph people in the room to oppose the bill. I understood Senator Kean to say there would be some representatives of those companies here who desired to be heard in opposition.

Senator KEAN. I did not make any such statement.

Senator ALDRICH. That is not the question at all. The question is for you to furnish the committee with some decision of some court to show that the United States Congress has any jurisdiction over these companies at all.

Senator FOSTER. I understand you to say, Mr. Schulteis, that you are satisfied in your own mind that Congress has jurisdiction.

Mr. SCHULTEIS. Yes.

Senator FOSTER. Can you state now on what theory?

Mr. SCHULTEIS. The telegraph matter is mentioned in the interstate commerce act, and I never knew that it was seriously doubted that a telegram from California to New York was interstate commerce. I hold that a telephone message is the same. It is the transmission of intelligence, and I never heard the question doubted before.

The CHAIRMAN. It ought to be easy for you to find some evidence that the courts consider it so.

Mr. SCHULTEIS. I have not looked up the subject as to whether there are any decisions bearing upon it.

The CHAIRMAN. There is no question that Congress has jurisdiction over the franking privilege to its own members, and we cut out free passes on the railroads.

Mr. ALDRICH. We cut out free passes on the railroads, on the theory that Congress can regulate commerce between the States.

The CHAIRMAN. It took an act of Congress to get the express companies and the sleeping-car companies under the interstate commerce law, the Hepburn Act. Now these telegraph companies have not yet by act of Congress come under the operation of that law.

Mr. SCHULTEIS. The act of 1866 expressly allows the Government of the United States to take control of the whole telegraph system if it wants to at any time.

Senator TILLMAN. What act is that?

Mr. SCHULTEIS. The act of 1866.

Senator ALDRICH. They have not done it yet, have they?

Mr. SCHULTEIS. No; because the telegraph companies have fought the proposition, even when Postmaster-General Wanamaker wanted to regulate them as to the price of the messages which they should charge for the Government of the United States.

Senator McLAURIN. The question is not whether there is any act of that kind, but whether such an act is within the scope of the authority and power of Congress under the Constitution to enact it. Now that is the question that has been propounded by the Senator from Rhode Island.

Mr. SCHULTEIS. When this question was up before the committee of Congress Postmaster-General Wanamaker and Postmaster-General Creswell both asserted that the Government had the right to control the telegraph just as much as the post-offices under the commerce clause of United States, and that was not disputed at the time.

Senator ALDRICH. Oh, I beg your pardon.

Senator McLAURIN. What Senator Aldrich wanted to know was whether there was any judicial determination of the question. The Postmaster-General's determination is not judicial. What Senator Aldrich wanted to know is whether you have any judicial determination of this question.

Mr. SCHULTEIS. I have not looked into the matter, but I will say that it is my opinion that there has been no occasion for the questioning of it, and consequently I do not think there is a single decision on the subject.

Senator McLAURIN. The next question is, has there been any analogous case decided.

Mr. SCHULTEIS. Every case involving the transmission of goods and chattels from one State to another is on exactly the same footing with messages—with the transmission of intelligence.

Senator McLAURIN. I am not taking the opposite side. I am just trying to put into your possession the point that the subcommittee of which Senator Aldrich is one wants to know.

Mr. SCHULTEIS. I am going to look that up.

Senator McLAURIN. So that you may be prepared to give them any authority on it which you may find, either a case directly in point or a case analogous.

Senator FOSTER. Do you hold that the Government of the United States can fix the charges which a telephone company chartered here in Washington can make for service from Washington, 'say, to the State of Virginia?

Mr. SCHULTEIS. Wherever it goes, from one State into another, I hold that it comes under the commerce clause, and that the Government of the United States can regulate it just as it regulates any other thing that can be transported—any other thing that can be transported. I will make the statement that broad.

The CHAIRMAN. As I understand, it is your purpose to furnish the authorities to Senator Aldrich that he has called for.

Mr. SCHULTEIS. Yes; I will look the matter up.

The CHAIRMAN. You may do that at your own time.

Senator ALDRICH. Do you think a company chartered—I will not say in the District of Columbia, because that might be under our jurisdiction—

Senator FOSTER. A company chartered in one State.

Senator ALDRICH. A company chartered in one State—that the United States can regulate the charges made by that company for service between two States?

Mr. SCHULTEIS. I think so, and I think that the United States by the act of 1866 has it expressly in its power to regulate the charges that it shall make, that the telegraph company shall make to the Government of the United States. At that time the telephone was not in existence, but it did hold that authority over the telegraphs, and in my judgment they are analogous and are on precisely the same footing.

Senator ALDRICH. Did not that grow out of granting a right of way over Government land to the Union Pacific and some of those other land-grant railroads, in which they reserved the right or made the grant on condition that they should be allowed to fix the charges for Government service? I think that is my recollection.

Mr. SCHULTEIS. No; it was a general telegraph act, and it referred to all telegraphs; not simply to the telegraphs over the transcontinental lines, over the Pacific roads, but it applied to all telegraphs, and at that time there were some 34 or 35 different companies. At present there is practically only one in the United States; and if there was any reason then for regulating and controlling them, there is a much greater reason now. I want to state to this committee that only a few months ago the telegraph companies on the same day all over the United States increased their rates and exactly at the same percentages everywhere. That is not a mere coincidence.

Senator McLAURIN. Do you refer now to telegraph or telephone companies?

Mr. SCHULTEIS. Telegraph.

Senator TILLMAN. We all recognize that the Western Union is practically the only telegraph line in the United States.

Senator KEAN. I beg your pardon.

Senator ALDRICH. There is the Postal.

Senator TILLMAN. The Postal Telegraph Company is around, but the two are so close kin that you can not tell them one from the other.

Mr. SCHULTEIS. I think that is right.

Senator KEAN. I do not agree with you. They are entirely independent.

Senator ALDRICH. I did not suppose there was any connection between them.

Mr. SCHULTEIS. At all events the census shows that the Western Union controlled eleven-twelfths of all the telegraph lines in the country in 1902, and therefore the Postal could only affect one-twelfth of the lines in the country.

The CHAIRMAN. I thought the Postal Company had gained very much since then.

Mr. SCHULTEIS. I take these figures from the special report on telegraphs and telephones, taken in 1902.

Senator TILLMAN. But this has no relation to the question whether Congress has ever asserted and whether the courts have ever decided that this is a matter of interstate commerce. Now, you can furnish us the authorities on that later, can you?

Mr. SCHULTEIS. Yes; and I will state to you that a great many States have legislated to control this matter within the States.

Senator TILLMAN. Undoubtedly a State has absolute jurisdiction within its own borders.

Mr. SCHULTEIS. By analogy I suggest that since the States have the power to control telegraphs within their borders, the United States has the same power over interstate business.

Senator McLAURIN. That would not do. You see the States can do anything that their constitutions do not prohibit. The General Government can not lawfully do anything that the Constitution of the United States does not give it authority to do.

Mr. SCHULTEIS. Under the commerce clause I hold that the United States can do this.

Senator ALDRICH. I am afraid you will not get very many people on this committee to agree with your contention—not many on either side of the table.

Mr. SCHULTEIS. Mr. Chairman, if an early day can be fixed, I will agree to have the data asked for in the hands of the subcommittee.

Senator ALDRICH. You can communicate with Senator Kean, who is chairman of the subcommittee. You need not fix any date. You can do that at any time.

The CHAIRMAN. You can do that to-morrow.

Mr. SCHULTEIS. I will do that to-morrow, and on the next regular meeting day of the committee we should like to hear from the opposition; and if we furnish the committee with the data showing that it is perfectly constitutional to legislate on the subject, we hope the committee will then either give us a hearing in reply to those who are in opposition or make a report on the bill to the Senate in order that we may get it before the Congress, because there are so many people all over this country who are petitioning, asking for this proposition. There are about 75,000 or 80,000 telegraphers who are interested.

Senator KEAN. How are they interested?

Mr. SCHULTEIS. They are interested inasmuch as they want the companies to employ them at better wages, and to employ more of them.

Senator KEAN. The telegraphers will soon be getting the benefit of this nine-hour law.

Mr. SCHULTEIS. As far as the railway telegraphers are concerned, the Order of Railway Telegraphers is interested in the nine-hour law, but the commercial telegraphers are not.

Senator ALDRICH. Do you provide in the bill that we shall legislate for larger pay?

Mr. SCHULTEIS. Not at all. The Senator asked me the direct question as to how the telegraphers were interested.

Senator ALDRICH. Why don't you put that into the bill, if that is the purpose?

Mr. SCHULTEIS. I did not say that was the purpose. I merely said, in answer to the Senator as to how the telegraphers of the country were interested in this bill, that that was one of the ways; and they wish to give a better service to the general public, because it would give them more satisfaction. At present they are compelled to do according to the way that the companies direct them to do. There is no supervision whatever by the Government over the telegraphs in any way, shape, or form, and we hold that there should be some supervision, and this bill gives it, and I did not think there was any opposition to it at all; and I am still at a loss to believe that the companies themselves will object to this.

The CHAIRMAN. I have here the act of 1866 to which you refer, and I think you are mistaken about its provisions, and about the rights of the Government, with reference to the transmission of Government messages. I will ask Senator Aldrich to read the provision.

Senator ALDRICH. It is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any telegraph company now organized, or which may hereafter be organized under the laws of any State in this Union, shall have the right to

construct, maintain, and operate lines of telegraph through and over any portion of the public domain of the United States, over and along any of the military or post roads of the United States which have been or may hereafter be declared such by act of Congress, and over, under, or across the navigable streams or waters of the United States: *Provided*, That such lines of telegraph shall be so constructed and maintained as not to obstruct the navigation of such streams and waters, or interfere with the ordinary travel on such military or post-roads. And any of said companies shall have the right to take and use from such public lands the necessary stone, timber, and other materials for its posts, piers, stations, and other needful uses in the construction, maintenance, and operation of said lines of telegraph, and may preempt and use such portion of the unoccupied public lands subject to preemption through which its said lines of telegraph may be located as may be necessary for its stations, not exceeding forty acres for each station; but such stations shall not be within fifteen miles of each other.

SEC. 2. *And be it further enacted*, That telegraphic communications between the several Departments of the Government of the United States and their officers and agents shall, in their transmission over the lines of any of said companies, have priority over all other business, and shall be sent at rates to be annually fixed by the Postmaster-General.

SEC. 3. *And be it further enacted*, That the rights and privileges hereby granted shall not be transferred by any company acting under this act to any other corporation, association, or person: *Provided, however*, That the United States may at any time after the expiration of five years from the date of the passage of this act, for postal, military, or other purposes, purchase all the telegraph lines, property, and effects of any or all of said companies at an appraised value, to be ascertained by five competent, disinterested persons, two of whom shall be elected by the Postmaster-General of the United States, two by the company interested, and one by the four so previously selected.

SEC. 4. *And be it further enacted*, That before any telegraph company shall exercise any of the powers or privileges conferred by this act, such company shall file their written acceptance with the Postmaster-General of the restrictions and obligations required by this act.

Approved July 24, 1866.

Mr. BEATTIE. If the Government has that right, certainly has it not the right to regulate a corporation engaged in interstate business?

The CHAIRMAN. This statute applies to the transmission of telegrams for the Government.

Senator McLaurin. This was a right given to the telegraph companies to establish their lines over the public domain on certain conditions.

Mr. BEATTIE. Yes.

Senator McLaurin. If they accept those conditions, that is a contract between the Government and the telegraph lines. It is just like any other contract where two parties come together by an agreement, and if the telegraph company in that instance did not see fit to accept those terms, it was not required to construct its telegraph lines, but if it did accept the terms, then it could not complain of the regulation that was contained in the agreement. Now, I am not arguing this question. I do not express an opinion one way or the other as to whether Congress has power to regulate, but that act there, the act of 1866, is not analogous at all. It does not bear on the question.

Mr. BEATTIE. If you will permit me, the La Follette bill seeks to give the public better service. That is all it seeks. The service now is extremely poor. The La Follette bill does not ask Congress to fix the rates, or anything of that sort. It merely seeks to give better service. That is the bill in a nutshell.

The CHAIRMAN. Have you reached the conclusion that you will furnish what Senator Aldrich suggested?

Mr. SCHULTEIS. Yes; and I would like to have the committee fix a date for the hearing.

The CHAIRMAN. The next meeting day is already assigned to more than we can hear, and you understand you must take your chances. Besides, the bill is in the hands of the subcommittee, and when the subcommittee reports to this committee, then will be the time for you to have any other hearing, if you care to be heard further, or if anybody else cares to be heard; that will be the time it can be considered, and then we can fix the date. Do you want to be heard further than to furnish this authority to the Senator?

Mr. SCHULTEIS. Not unless there is some opposition to the bill.

The CHAIRMAN. Then you want to answer that.

Mr. SCHULTEIS. Yes.

Senator TILLMAN. What earthly justification have you for undertaking to make these people file their messages in chronological order and keep them six years?

Mr. SCHULTEIS. That was done for the convenience of the public.

Senator TILLMAN. But the public do not want it. There is not one message in a hundred that will ever be a subject of controversy, and to have the companies file and store them and arrange them chronologically and label them would involve an immense additional clerk hire and storage room. Just imagine how fast the messages pile up. This large room would not hold the messages in this town for a month, and in New York I suppose they would fill up a room like this every day.

Mr. SCHULTEIS. That part of the bill is the only one we expected would be antagonized, and we are willing the committee should use their own judgment in regard to it. We do think there should be some time limit fixed by law during which the messages should be preserved.

Senator KEAN. How long are they required to keep them now?

Mr. SCHULTEIS. They keep them about six months now, and the statute of limitations runs longer than that, and in a great many cases where telegrams would have been of immense value to litigants they have been unable to get them. This is in the interest of the general public. After they have filed them away once it is very little trouble to let them lie where they are.

Senator TILLMAN. But it will incur a large expense to find room for them all.

Mr. SCHULTEIS. These offices are distributed all over the United States and every little office has enough room.

Senator TILLMAN. There is no trouble about that. For instance at my little depot at Trenton there would be no difficulty to find store room enough, but in Washington, New York, Chicago, and other large cities where space is very valuable and costly, you can not justify, at least not to me, compelling these people to keep the originals of those messages six years.

Senator ALDRICH. Is it your theory, Mr. Schulteis, when a bill is presented to this committee, that unless somebody opposes it we are bound to report it favorably and promptly, and that the committee is simply here as a machine to turn out bills because somebody offers them and nobody comes here to oppose them? I myself do not understand that to be the function of a Senator.

Mr. SCHULTEIS. In a public matter like this, where the interests of so many people are concerned, and all the merchants, boards of trade,

chambers of commerce, and citizens use the telegraph and are interested in its regulation——

The CHAIRMAN. We have not had any petitions. No commercial bodies have appeared here. No chambers of commerce have come here asking this.

Mr. SCHULTEIS. A great many petitions have been sent in. I don't know whether they have been presented.

The CHAIRMAN. How does the taking away of telegraph franks help the operators?

Mr. SCHULTEIS. That will increase the amount of money that the telegraph companies will make, and they can pay their operators better wages. At present they pay them less than \$55 per month on an average.

Senator McLAURIN. Do the telegraph companies, in addition to the salaries of their operators, pay a percentage of the receipts at the different offices?

Mr. SCHULTEIS. No.

Mr. BEATTIE. Hon. James T. McDermott, a Member of the House of Representatives from Chicago, who was a telegrapher for twenty years, desires to answer that question.

STATEMENT OF HON. JAMES T. McDERMOTT.

Mr. McDERMOTT. Mr. Chairman and gentlemen of the committee, in branch offices, where they handle perhaps eight, ten, fifteen, or twenty messages in a day, and also in some hotels, where they handle perhaps twenty-five messages a day, it has been the old rule of the Western Union Telegraph Company to give from ten to twenty or twenty-five and I think as high as forty per cent of the gross receipts to the operator in lieu of salary. Take a man who has the cigar store in a hotel; he is an ex-operator, and he will have a telegraph wire in there, and the chances are that he will make from \$25 up to \$50 a month; but if he ever gets up as high as \$60 a month they are going to put him on a salary.

Senator McLAURIN. Where they have the operator on a salary do they pay him a commission on the receipts in addition to the salary?

Mr. McDERMOTT. Never in the twenty-two years I was in the business did I know of an instance of that kind. Of course they pay overtime, but a man has to work for that.

Senator ALDRICH. Is the pay of telegraph operators fixed according to the receipts of the company?

Mr. McDERMOTT. The pay of telegraphers is fixed under a peculiar system. They take a boy as a messenger boy. He may work in his own town until he becomes a proficient and first-class operator. The wages differ in different cities. Close up to the Canadian border the wages are lower than they are farther inland. The reason of that is that they are so near Canada, where they do make strictly high-class operators, yet they work there for probably \$25 a month, and on account of the coming in of operators from Canada they get first-class proficient operators in Detroit, Port Huron, Buffalo, and Cleveland for \$50 a month. They soon find out that they are not getting a just salary, that they are working alongside of \$75 and \$80 operators. They leave there and come to Chicago and come to New York, and come to the other big cities, and some

go West. The young boy who learns telegraphy in his home town in this country may finally get up to \$52 and possibly \$55 a month. If he gets \$60 a month he is very lucky. He can leave that \$60 a month job and break home ties and associations and come over to Chicago or New York, or some other big town, and get \$80 a month, but he is away from home, and being a young boy he is naturally anxious to get back home. And he is soon anxious to get back to his home town at from 20 to 35 per cent less salary than he receives in the large city.

In the last year the telegraph companies have raised their tariffs from 20 to 60 per cent. I will cite a 60 per cent instance. From Chicago to Buffalo the former rate was 25 cents for ten words. It is now 40 cents for ten words, which is a 60 per cent increase. The minimum increase is 20 per cent. They did increase the operators' wages 10 per cent.

Mr. BEATTIE. But they reduced them recently.

Mr. McDERMOTT. They had them increased up to and including the strike, but everybody who went back after the strike found his wages reduced to his original pay or lower.

Senator ALDRICH. If the Western Union and other companies should increase their earnings 10 per cent, would they increase the pay of the operators?

Mr. McDERMOTT. They increased their tariffs up to 60 per cent, but they can not show any place where they have raised the salaries of a year ago.

Senator ALDRICH. I thought you said they did increase salaries 10 per cent.

Senator KEAN. You do not mean to say that the telegraph companies have increased their earnings?

Mr. McDERMOTT. I said they had increased their tariffs up as high as 60 per cent in some cases.

Senator TILLMAN. That would necessarily increase their earnings.

Senator KEAN. They have fallen off tremendously according to the published reports.

Senator TILLMAN. If they increased their tariffs they must increase their earnings.

Senator ALDRICH. If the business remains the same.

Mr. McDERMOTT. Everybody knows that the last three or four months have been panic months. Up to that time they had good times.

The CHAIRMAN. The rate from Washington to New York used to be 25 cents and now it is 30 cents.

Senator FOSTER. What are the complaints of the operators and what relief would this bill furnish them?

Mr. McDERMOTT. I could not answer that question off-hand. The bill as it reached here will naturally increase the receipts of the company by cutting off the franking privilege.

Senator ALDRICH. How do you anticipate that would be?

Mr. McDERMOTT. I have not been in the telegraph business since March, 1906. It is two years next month.

Senator ALDRICH. If they have increased the rates 40 to 60 per cent, and that has not affected the operators, I am trying to find out how by cutting off the franking privilege the operators will be benefited.

Mr. SCHULTEIS. There has been a tremendous strike on the lines of the Western Union and Postal systems, and, as Mr. McDermott says, there has been a time of panic since October, and that has had its influence on the earnings, but otherwise their earnings would have greatly increased.

Senator ALDRICH. And you think the pay of operators would proportionately increase?

Mr. SCHULTEIS. No; I do not think they would have raised the pay of the operators. It has not been their custom to do so. On the contrary, it has been their custom to reduce them, and they have on hand now a proposition to reduce the pay of operators 10 per cent, and they are about to enforce that throughout the South now.

Senator ALDRICH. What part of the bill, Mr. McDermott, do you expect is going to affect the wages of the operators?

Mr. McDERMOTT. I would think that section 3 would do that.

Senator ALDRICH. What is the purpose of that?

Mr. McDERMOTT. It has many good purposes. The most important part is this: Take the telegraph offices at what are called quads and duplex, where there are two or four men working one wire, the operator will have a stack of messages under him as high as that. It does not make any difference how many he sends. The young operators are sometimes suckers enough to send fifty messages an hour. Piling the messages up that way under the hand of one operator will make at least an hour's delay for any message in the pile. Now they play favorites. What I mean by that is that they give special privileges. They have what we call pink messages. Pink messages are rush messages. Now the ordinary person, who did not understand the pink message, would go in and send a death message and that death message maybe take all the way from one hour to one week in transit. I have known particular cases—I can not prove it now, because it is too far back—where the Western Union, during an extraordinarily heavy snowstorm between New York and Chicago, would send a trunkful of messages from New York to Buffalo by express, and have them transmitted from there by wire, or do the same thing from Chicago to Buffalo by express, from which place they would be transmitted to New York by wire. Buffalo is the place where they do all the balancing of the wires, straightening them out. If the work is heavy on one side and light on another they can adjust them up or down, and what I have told you about sending a trunkful of messages by express is an acknowledged fact, that the Western Union and the Postal have sent trunkfuls of messages from Chicago to Buffalo by express and then from Buffalo to New York by wire, or vice versa, whichever way the storm might happen to affect, west or east of Buffalo. That is a direct violation of the interstate law. They took money for sending the messages by telegraph and sent them by express.

Mr. SCHULTEIS. And in other cases many times they send them by mail.

Senator ALDRICH. And that is a violation of what?

Mr. SCHULTEIS. A violation of their agreement. They send these messages by telegraph and they do not.

Senator ALDRICH. And what law do you think they violate?

Mr. SCHULTEIS. I think they are receiving money under false pretenses. They charge telegraph rates, and a message may cost \$1.75

to send by telegraph. They put a 2-cent stamp on it and send it for 2 cents and keep the other \$1.73 themselves.

Mr. McDERMOTT. During last spring they mailed messages which were interstate from one State to another, and also intrastate messages too.

The CHAIRMAN. That was done all up and down during the storms.

Senator McLaurin. You are speaking about the unnecessary and inordinate delay in the transmission of messages. What caused that?

Mr. McDERMOTT. Scarcity of operators caused by not paying them enough, not having enough operators to do the work. Delaying business to save expense. That would be my idea about it.

Senator McLaurin. You spoke about some young men who sent 50 messages an hour.

Mr. McDERMOTT. Yes; they do all the time on heavy wires.

Senator McLaurin. Others will not do that?

Mr. McDERMOTT. No; it is not necessary. The way we are fixed, a fellow is lucky to send fifteen messages an hour.

Senator McLaurin. Why is that?

Mr. McDERMOTT. Maybe an operator will have from fifteen to forty stations, where both railroad and telegraph business is done. The operator taking train orders will have two wires. Naturally the railroad sounder is up high and going all the time and his Western Union sounder is turned down.

Senator McLaurin. What I want to get at is, why would the new men send more than the older telegraphers?

Mr. McDERMOTT. Because of ambition. He expects to rise, to get up to the good operators, trying all the while to get up to a higher salary, and that is the reason they will work in that way, and it has been agreeable to the Western Union and Postal Telegraph companies to allow them to do that.

Mr. Beattie. And that causes numerous errors all around, as the result of incompetency.

The CHAIRMAN. I suppose we have reached an understanding that you will furnish the authorities which have been called for?

Mr. McDERMOTT. I think your understanding with Mr. Schulteis is right. Let him go and get the authorities and come in with a plain statement, so we all can understand it.

Senator Tillman. And as soon as we can get together, after we get notice of the receipt of these authorities, we can see what they have to say.

The CHAIRMAN. We can not fix a date just now.

Senator Tillman. Whenever they are ready to present their case, they can come to Senator Aldrich, of the subcommittee, and he and Mr. Kean and myself will get together in his committee room or somewhere else and let you gentlemen have your innings.

Senator Aldrich. There is one subject on which I would be glad to have you file a brief. There are a large number of things in the third section which state what the companies shall do, and among other things they shall put the time of filing on messages that are sent out, and for the offense of failing to do that you provide imprisonment of three years, or a fine or both, but if there is a conviction there must be at least three years' imprisonment.

The CHAIRMAN. Who are they going to convict?

Senator Aldrich. I do not know.

Mr. SCHULTEIS. There is a section at the end of the bill which grants immunity to those who testify.

The CHAIRMAN. Will they put the operator in jail?

Mr. SCHULTEIS. It provides that no agent or officer of the company shall be privileged from testifying, and no person having so testified shall be liable to any prosecution or punishment for any offense concerning which he was required to give his testimony or produce any documentary evidence.

Senator ALDRICH. Who is to be imprisoned?

Mr. SCHULTEIS. The offender, whoever he is.

Senator KEAN. The offender is the telegraph company.

Mr. McDERMOTT. It will not take an operator fifteen seconds' time to transmit the filing time of the message.

Senator ALDRICH. That is not my question; not how much time it will take, but if a man fails to do it he is subject to three years' imprisonment, and it must be the telegraph operator. It can not be anybody else. Certainly the president of the telegraph company can not be imprisoned. It must be some of the men that you are here to appear for.

Mr. McDERMOTT. The bill is possibly too drastic.

Senator TILLMAN. It seems to me the bill is hastily drawn, and that it hits the other party.

The CHAIRMAN. You do not want to get the operators in jail.

Mr. McDERMOTT. They might as well be in jail as where they are now. They are slaves now and they might as well be in jail.

The CHAIRMAN. I am not sure how much we can do to remedy that.

Mr. SCHULTEIS. We will file the brief which the Senator and the subcommittee called for, and then we understand that we will, within reasonable time, have opportunity to get a hearing before this committee.

Senator McLAURIN. Send it to the subcommittee, and after the subcommittee gets this, we will take it up with the subcommittee.

Mr. McDERMOTT. In regard to interstate telephoning, there is, as far as I can ascertain, only one interstate telephone company, and that is the American Telegraph and Telephone Company, and that company does both interstate telephoning and telegraphing.

Senator ALDRICH. Have they any telegraph offices?

Mr. McDERMOTT. They have their headquarters in all the big telephone offices of the big cities, and they have private places, too. They have a building in Chicago, out in the Fourth Congressional district, a monstrous building. They lease wires. They lease telephone wires for telegraph purposes during the day, and at night they use them for telephoning.

Senator ALDRICH. But they do not receive telegraph messages?

Mr. McDERMOTT. No, not individual telegrams, but they lease their wires to corporations and firms for telegraphic purposes.

At 11.30 o'clock a. m. the hearing was adjourned.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
UNITED STATES SENATE,

Friday, March 13, 1908.

The committee met at 10.30 o'clock a. m.

Present, Senators Elkins (chairman), Aldrich, Kean, Foraker, Clapp, Tillman, McLaurin, Foster, Newlands, and Taylor.

Mr. Herman J. Schulteis, counsel for the Commercial Telegraphers' Union of America, appeared.

ADDITIONAL STATEMENT OF HERMAN J. SCHULTEIS, ESQ.

MR. SCHULTEIS. Mr. Chairman, in compliance with the request of the committee at the hearing on Senate bill 4395 on February 28, 1908, concerning telegraphs in relation to interstate commerce, I submit the following citations:

The telegraph is an instrument of commerce, within the protective power of Congress, against obstructions by State legislation. (*Pensacola, etc., Tel. Co. v. West, etc., Tel. Co.*, 96 U. S., 9, 10; 24L., 708; Bk. IX U. S. Notes, 356.)

Telegraphs are instruments of commerce, and telegraph companies are subject to Congressional regulation as respects their foreign and interstate business. (*Telegraph Co. v. Texas*, 105 U. S., 464; 26L., 1067; Bk. X U. S. Notes, 309.)

Intercourse between States by telegraph is a species of interstate commerce that can not be regulated by State law. (*W. U. Telegraph Co. v. Pendleton*, 122 U. S. 356-358; L., 1187; Bk. XI U. S., 425; 32L., 229; Bk. XI U. S. Notes, 585; *Western Union Telegraph Co. v. James*, 162 U. S., 654; 40L., 1105; Bk. XII U. S. Notes, 864.)

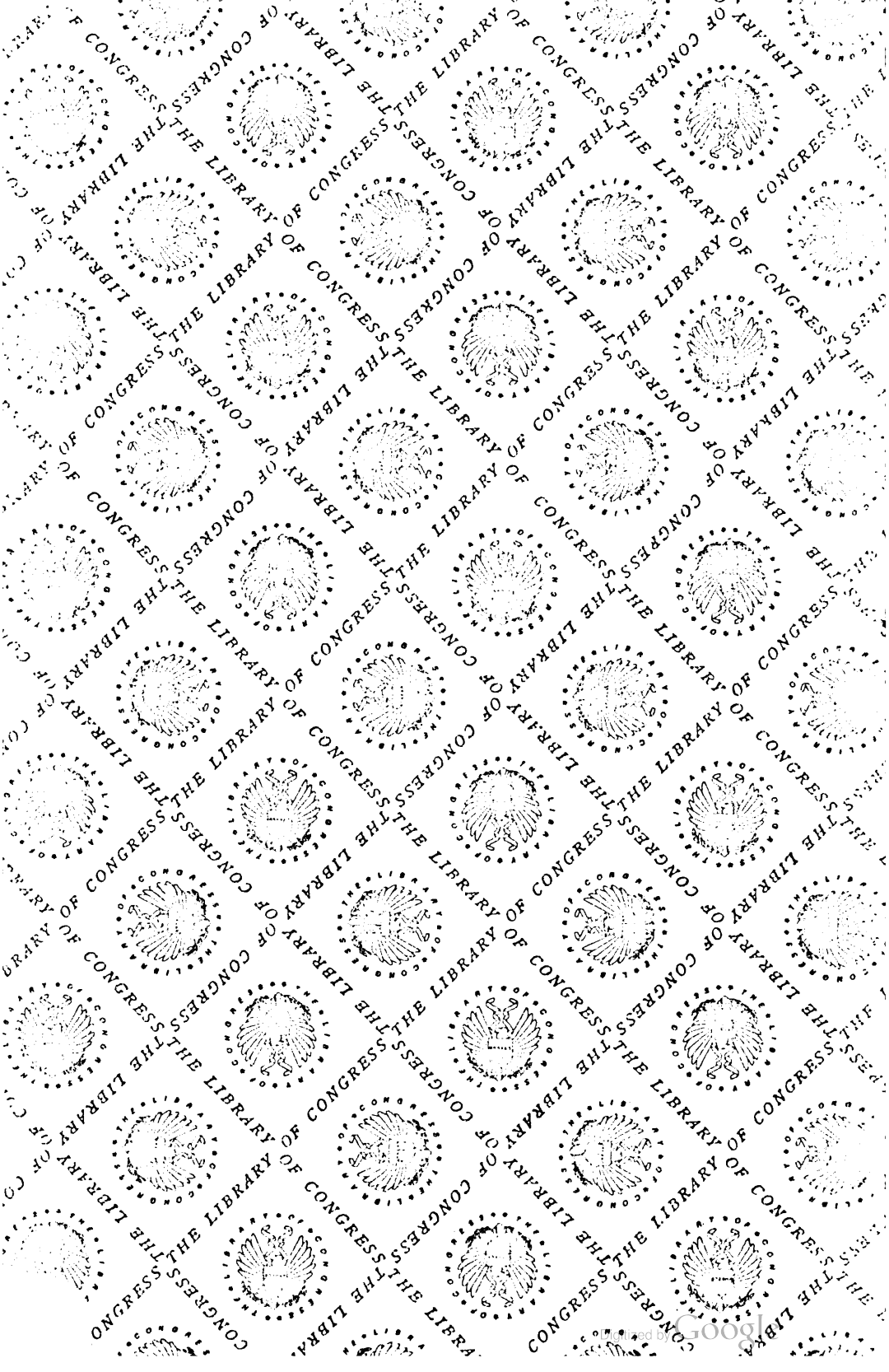
Telegraph companies are subject to regulation by Congress in respect to foreign and interstate business, occupying same relation to commerce as railway companies. (*Ratterman v. Western Union Tel. Co.*, 127 U. S., 425; 32L., 229; Bk. XI U. S. Notes, 585.)

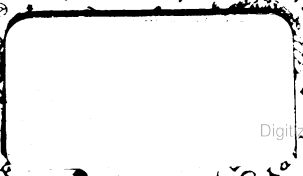
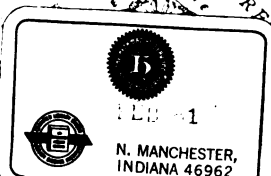
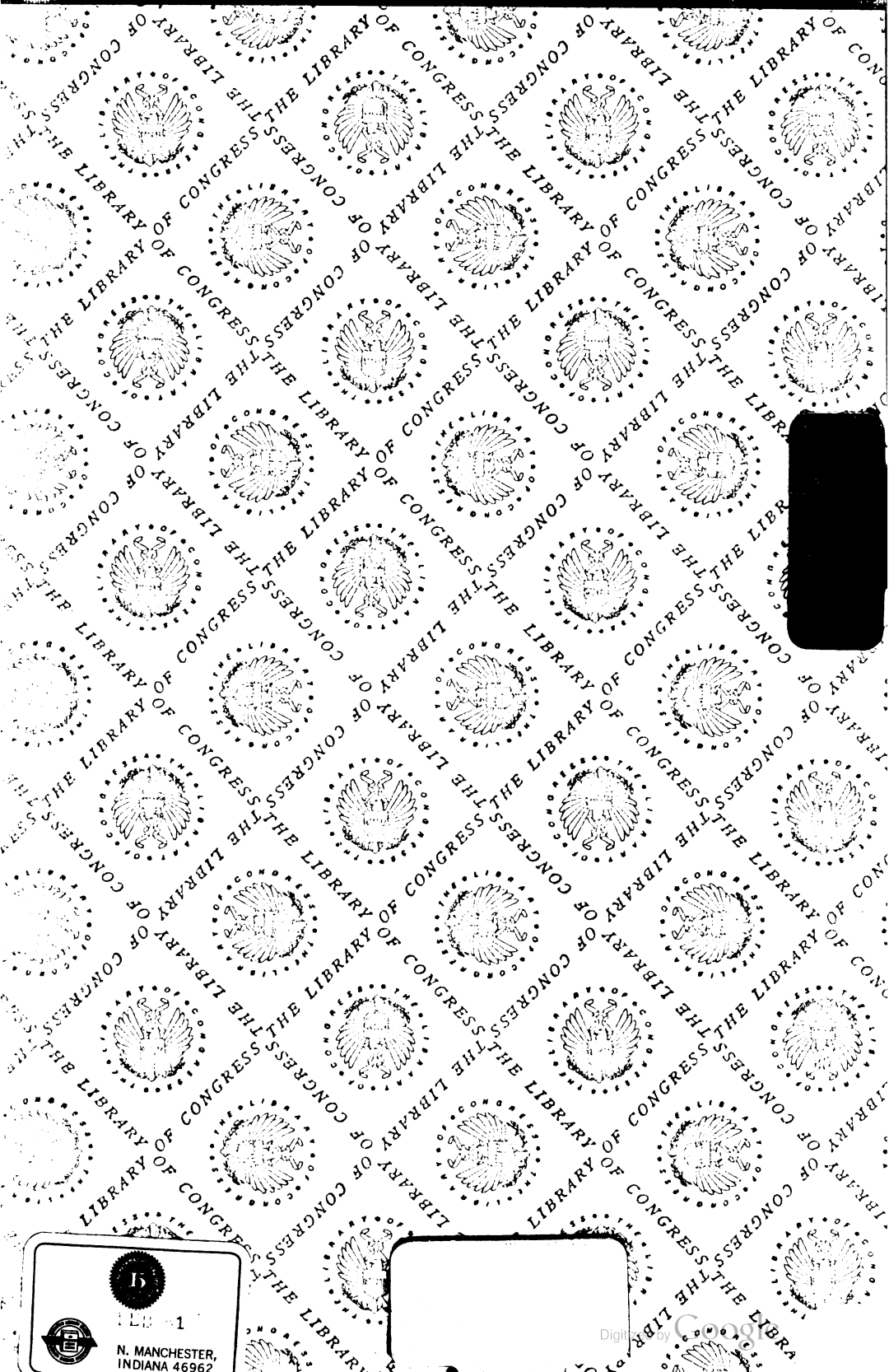
Telegraph messages sent from one State to another are elements of interstate commerce and not subject to State control. (*Western Union Telegraph Co. v. Alabama*, 132 U. S., 473; 33L., 409; Bk. XI U. S. Notes, 848.)

The principles of the commerce law are operative upon all interstate commercial transactions, except so far as they are modified by Congressional enactment. (*Western Union Telegraph Co. v. Call Publishing Co.*, U. S. Reports, vol. 181, Oct. term, 1900, p. 92.) 58 Nebraska, 192, error to the supreme court of Nebraska, Mr. Justice Brewer, in delivering the opinion of the court, said in part, page 98: "The telegraph company is a common carrier, and is said to exercise a quasi-public function. On the other hand, the Call Publishing Company has certain legal rights, etc. * * * To affirm that a condition of things exists under which common carriers anywhere in this country, engaged in any form of transportation, are relieved from the burdens of these obligations is a proposition which, to say the least, is startling.

And yet, as we have seen, that is precisely the contention of the telegraph company," etc. * * * Again, on page 102: "Can it be the great multitude of interstate commercial transactions are freed from the burdens enacted by the common law, as so defined, and are subject to no rule except that to be found in the statutes of Congress? We are clearly of the opinion that this can not be so, and that the principles of common law are operative upon all interstate commercial transactions so far as they are modified by Congressional enactment. But this question is not a new one to this court. In *Interstate Com. Comn. v. B. & O. R. R.* (145 U. S., 263, 275), a case which involved interstate commerce, it was said by Mr. Justice Brown, speaking for the court: 'Prior to the enactment of the act of February 4, 1887, to regulate commerce, commonly known as the interstate commerce act (24 Stat. L., 379, ch. 104), railway traffic in this country was regulated by the principles of common law applicable to common carriers.'"

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